

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 04/27/01?
b. The request was received on 04/24/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. Initial TWCC 60 and letter requesting dispute resolution
 1. EOBs
 2. UB-92
 - b. There is no response to the request for additional documentation found in the file. A confirmation sheet indicates that the request was faxed to the Requestor on 06/11/02
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II
 - a. Initial response to Request for dispute resolution dated 05/01/02
 - b. Position statement dated 05/01/02

III. PARTIES' POSITIONS

1. Requestor: No position statement
2. Respondent: Letter dated, 05/01/02
"Carrier reimbursed requestor at a fair and reasonable rate in the absence of a TWCC-adopted fee guideline. The amount paid by the respondent was \$2,236.00, twice the per diem rate established in the current Acute Care Inpatient Hospital Fee Guideline."

IV. FINDINGS

1. Based on Commission Rule 133.307 (d)(1&2), the only date of service (DOS) eligible for review is 04/27/01.
2. The amount in dispute is \$4,359.00 per the disputed services chart.
3. There is no medical in the file to support that the services were rendered.
4. There is no information to support that the provider's fees are fair and reasonable.

V. RATIONALE

The UB-92 indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. Regardless of the carrier's methodology or lack thereof, or a timely or untimely response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable.

There is no documentation to support that the provider's fees are fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 14th day of August 2002.

Carolyn Ollar, RN, BA
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.